United Nations A/HRC/34/13/Add.1

General Assembly

Distr.: General
8 March 2017

Original: English

Human Rights Council
Thirty-fourth session
27 February-24 March 2017
Agenda item 6
Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

South Sudan

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

GE.17-03766(E)
1703766

Please recycle

1. The Government of National Unity (TGoNU) of the Republic of South Sudan expresses its appreciation to the Working Group members of the Troika and the Secretariat of the Human Rights Council for the efforts made in consideration and adoption of South Sudan first report under the Universal Periodic Review (UPR).

2. During the interactive dialogue in November, 2016, South Sudan received 233 recommendations in total out of which 77 recommendations enjoy TGoNU; 43 recommendations were considered by TGoNU to be under implementation or being implemented; 97 recommendations were taken to the capital for further consultations and 16 recommendations got noted.

3. Therefore, the present document is to address those recommendations which were taken for examination or noted during the interactive dialogue.

4. Therefore, TGoNU has classified its responses to the recommendations into four (4) parts but will be making explanations throughout the document to those recommendations noted or not accepted.

(a) **The recommendations formulated during the interactive dialogue listed below have been examined by TGoNU and enjoy its support but needs technical assistance and resources to fully implement them. The recommendations are (128.1 to 128.29, 128.31 to 128.32, 128.36 to 128.39, 128.42, 128.46 to128.52, 128.55 to128.71, 128.73, 128.75 to 128.86, 128.88, 128.90 to 128.91 and 128.93 to128.97).**

(b) **The recommendations formulated during the interactive dialogue listed below were "Noted" but are accepted by TGoNU after consultations. The recommendations are (129.5 and 129.6).**

5. TGoNU accepts the recommendations listed in (a) and (b) above without reservations but is requesting the members of the Human Rights Council in particular and the international community to provide TGoNU with the necessary technical and resources support so that these recommendations are fully implemented within the cycle period before the next review.

(c) **The recommendations formulated during the interactive dialogue listed below have been examined by TGoNU and did not enjoy its support and therefore are noted because the recommendations are in conflict with the national laws, government structures, policies or customs. The recommendations are (128.30, 128.33, 128.34, 128.35, 128.40, 128.41, 128.43, 128.44, 128.45, 128.53, 128.54, 128.72, 128.74, 128.87, 128.89 and 128.92).**

6. Based on above listing and the brief introduction, TGoNU will like to make the following explanations:

128.30: The recommendation failed to specify parts of the National Security Service Act which is considered to be in violation of any right and therefore TGoNU find it difficult to accept the recommendation.

128.33: The recommendation is in conflict with South Sudan customs and beliefs as such cannot be supported.

128.34: The Ministry of Gender, Child and Social Welfare is responsible for issues relating to the welfare of children in the country therefore, creation of an independent children commission will conflict with the Ministry mission which is already in progress.

128.35, 128.40, 128.41, 128.72, 128.74: South Sudan has no plan or policy to attack, rape, arbitrarily detain or extra-judicial execute its citizens. Any attack, rape or unlawful detention or killings is an offence under South Sudan penal law. TGoNU agrees with

objective of these recommendations but that does not imply acceptance by the Government of South Sudan responsibility for the attacks against civilians. Currently before the Transitional National Legislative Assembly (TNLA) a chapter on international law crimes has been added to the Penal Code to deal with cases of crimes against humanity, war crimes and genocide.

128.43, 128.45, 128.53, 128.54: South Sudan has commitment to protect children and that is why South Sudan acceded without reservation to the International Convention on the Rights of the Child, 1989 and the Optional Protocol particularly the Optional Protocol on Involvement of Children in Armed Conflict. The SPLA Act, 2008 prohibits recruitment and use of child soldiers. Also the South Sudan Child Act, 2008 prohibits recruitment of any person into the army under the age of 18 years. In line with the national laws, South Sudan signed a Re-Committeemen Action Plan which resulted in identification, demobilisation and reunification of children associated with various militia groups which accepted peace.

128.44: Protection of civilians currently living in the United Nations Mission in South Sudan (UNMISS) Protection of Civilian Sites (PoCs) is the responsibility of United Nations and therefore any security breaches taking place within the PoCs cannot be attributed to South Sudan security personnel because our security personnel cannot have access to the PoCs.

128.87, 128.89, 128.92: South Sudan has many registered civil society organisations, media outlets and there are laws in place governing their work. Any case of detention or arrest of any member of the civil society or journalist is always due to violation of the media laws or Non-Governmental Organisation Act. Recommendation for amendment of the National Security Service Act and Non-Governmental Organisations Act has not provided a clear path as to which parts or sections of the two laws are considered to violate or intrude upon rights. Therefore as there is no clear mentioning of the parts of the two laws to be amended, South Sudan considers these two laws not intruding upon the rights of its citizens. Not only that the TGoNU do not accept the recommendation for amendment of the National Security Service Act, 2014 because the law provides for an oversight mechanisms and currently there is a prosecutor appointed by the Ministry of Justice and Constitutional Affairs to ensure compliance of the National Security Service with the Constitution and the law particularly in regards to the rights of the detainees.

(d) Recommendations which did not enjoy TGoNU support and therefore remain "Noted". The recommendations are (129.1, 129.2, 129.3, 129.4, 129.7, 129.8, 129.9, 129.10, 129.11, 129.12, 129.13, 129.14, 129.15 and 129.16).

7. TGoNU did not accept the under mentioned recommendations because:

129.1, 129.2, 129.3, 129.4: South Sudan did not accept these recommendations as the recommendations never provided specifically which are the main regional and international or other human rights instruments which South Sudan have not acceded.

129.7, 129.8, 129.9, 129.10, 129.14, 129.15, 129.16: These recommendations did not enjoy TGoNU support because they are in conflict with national laws and policies. South Sudan does not impose death penalty except under rare situations after exhaustion of all steps laid down by the Constitution and not on the persons under 18, over 70 years. Therefore, abolition of death penalty is not a priority. Also South Sudan has Supreme Court which protects human rights stipulated in the Transitional Constitution, 2011 and International Conventions to which South Sudan is party. Finally death penalty is still part of the domestic law punishment policy in accordance with South Sudan current penal laws.

129.11, 129.12, 129.13: TGoNU do not accept the word ratify without limiting it because South Sudan as a country has the right to accede or not accede to the Rome Statute of the International Criminal Court base on the national interest and priority. Therefore TGoNU

does not see the ratification of Rome Statute of the International Criminal Court as its priority, especially that the crimes triable by ICC are offences even punishable by death under South Sudan penal laws.

8. It is worth mentioning that all recommendations which received TGoNU approval during the interactive dialogue and those accepted after consultations will enjoy TGoNU commitment in terms of implementation. However, the recommendations not accepted or supported because of general and not necessarily stating the situation on the ground in South Sudan, TGoNU will be making further oral or written clarifications during the 34th Session of the Human Rights.